

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 DEVONTE B. HARRIS,

12 Plaintiff,

13 v.

14 S.M. BORQUEZ, et al.,

15 Defendants.

No. 1:23-cv-00046-ADA-BAM (PC)

16 ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS

(ECF No. 11)

17 Plaintiff Devonte Harris is a state prisoner proceeding pro se in this civil rights action filed
18 pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge
19 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On February 14, 2023, the assigned Magistrate Judge screened Plaintiff's complaint and
21 found that it stated a cognizable claim against Defendants for deliberate fabrication of evidence in
22 violation of the Fourteenth Amendment but failed to state any other cognizable claims for relief.
23 (ECF No. 8.) The Magistrate Judge ordered Plaintiff either to file a first amended complaint or
24 notify the Court of his willingness to proceed on the one cognizable claim the Magistrate Judge
25 identified. (*Id.*) On March 6, 2023, Plaintiff notified the Court of his willingness to dismiss his
26 malicious prosecution claim and proceed on the deliberate fabrication of evidence claim only.
27 (ECF No. 9.)

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1 Pursuant to Plaintiff's notice, the Magistrate Judge issued findings and recommendations
2 on March 7, 2023, recommending that this action proceed on Plaintiff's complaint against
3 Defendants for deliberate fabrication of evidence in violation of the Fourteenth Amendment.
4 (ECF No. 11.) The Magistrate Judge further recommended that all other claims be dismissed
5 based on Plaintiff's failure to state claims upon which relief may be granted. (*Id.*) On March 21,
6 2023, Plaintiff filed a "Statement of Non-Opposition" to the findings and recommendations.
7 (ECF No. 12.)

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
9 de novo review of this case. Having carefully reviewed the entire file, including Plaintiff's non-
10 opposition to the findings and recommendations, the Court finds the findings and
11 recommendations to be supported by the record and proper analysis.

12 Accordingly,

13 1. The findings and recommendations issued on March 7, 2023, (ECF No. 11), are
14 adopted in full;

15 2. This action shall proceed on Plaintiff's complaint, filed January 11, 2023, (ECF
16 No. 1), against Defendants S. M. Borquez and P. Queredo for deliberate
17 fabrication of evidence in violation of the Fourteenth Amendment;

18 3. All other claims are dismissed from this action for failure to state claims upon
19 which relief may be granted; and

20 4. This action is referred back to the assigned Magistrate Judge for proceedings
21 consistent with this order.

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24 IT IS SO ORDERED.

25 Dated: March 27, 2023



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UNITED STATES DISTRICT JUDGE